

waybill to identify the regulated article.

(b) The certificate for the interstate movement of a regulated article must be furnished by the carrier to the consignee listed on the certificate upon arrival at the location provided on the certificate.

(Approved by the Office of Management and Budget under control number 0579-0191)

§ 301.92-9 Costs and charges.

The services of the inspector during normal business hours (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) will be furnished without cost. The user will be responsible for all costs and charges arising from inspection and other services provided outside normal business hours.

§ 301.92-10 Treatments.

Treatment schedules listed in part 305 of this chapter to destroy *Phytophthora ramorum* are authorized for use on certain regulated articles. The following treatments also may be used for the regulated articles indicated:

(a) *Soil*—Heat to a temperature of at least 180 °F for 30 minutes in the presence of an inspector.

(b) *Wreaths, garlands, and greenery of host material*—Dip for 1 hour in water that is held at a temperature of at least 160 °F.

[70 FR 36331, June 23, 2005]

§ 301.92-11 Inspection and sampling protocol.

(a) *Annual nursery inspection and sampling*. To meet the requirements of § 301.92-5(a)(1)(iv) of this subpart, nurseries that ship regulated articles of nursery stock interstate must be inspected for symptoms of *Phytophthora ramorum* annually in accordance with this section.

(1) If the nursery contains 100 or fewer regulated articles, an inspector will inspect each regulated article. If the nursery contains more than 100 regulated articles, an inspector will inspect 100 regulated articles and at least 2 percent of the number of regulated articles contained in the nursery that exceeds 100. The regulated articles to

inspected will be randomly selected from throughout the nursery.

(2) If symptomatic plants are found upon inspection, the inspector must collect at least one sample per symptomatic plant.

(3) If fewer than 40 symptomatic plants are found in a nursery during an annual inspection, the inspector must collect samples from nonsymptomatic regulated articles of nursery stock so that the total number of sampled plants is at least 40.

(4) Samples must be labeled and sent for testing to a laboratory approved by APHIS.

(5) If any regulated articles within a nursery are found to be infected with *Phytophthora ramorum*, the nursery will be prohibited from moving regulated articles interstate until such time as an inspector can determine that the nursery is free of *Phytophthora ramorum*.

(b) *Inspection and sampling of individual shipments*. To meet the requirements of § 301.92-5(a)(1)(iv) of this subpart, each shipment of regulated articles of nursery stock intended for interstate movement must be inspected for symptoms of *Phytophthora ramorum* in accordance with this section.

(1) If a shipment contains 100 or fewer regulated articles, an inspector will inspect each regulated article. If a shipment contains more than 100 regulated articles, an inspector will inspect 100 regulated articles and at least 2 percent of the number of regulated articles contained in the shipment that exceeds 100. The regulated articles to be inspected will be randomly selected.

(2) If symptomatic plants are found upon inspection, the inspector will collect at least one sample per symptomatic plant, and one sample per regulated article of nursery stock that is in close proximity to, or that has had physical contact with a symptomatic plant.

(3) Samples will be labeled and sent for testing to a laboratory approved by APHIS, and must be found free of *Phytophthora ramorum* prior to the interstate movement of any regulated articles contained in the shipment.

(4) If any plants intended for interstate movement are found to be infected with *Phytophthora ramorum*, the

nursery from which they originate will be prohibited from moving regulated articles interstate until such as time as an inspector can determine that the nursery is free of *Phytophthora ramorum*.

Subpart—Oriental Fruit Fly

SOURCE: 58 FR 8521, Feb. 16, 1993, unless otherwise noted.

§ 301.93 Restrictions on interstate movement of regulated articles.

No person shall move interstate from any quarantined area any regulated article except in accordance with this subpart.¹

[58 FR 8521, Feb. 16, 1993, as amended at 66 FR 21053, Apr. 27, 2001]

§ 301.93–1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service. The Animal and Plant Health Inspection Service of the United States Department of Agriculture (APHIS or Service).

Certificate. A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of Oriental fruit fly and may be moved interstate to any destination.

Compliance agreement. A written agreement between the Animal and Plant Health Inspection Service and a person engaged in growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart.

Core area. The 1 square mile area surrounding each property where Oriental fruit fly has been detected.

Day degrees. A mathematical construct combining average temperature over time that is used to calculate the

length of an Oriental fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F:

$$[(\text{Minimum Daily Temp} + \text{Maximum Daily Temp})/2] - 54^\circ = \text{Day Degrees}$$

Drip area. The area under the canopy of a plant.

Infestation. The presence of the Oriental fruit fly or the existence of circumstances that make it reasonable to believe that the Oriental fruit fly is present.

Inspector. Any employee of the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person authorized by the Administrator to enforce this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document, in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is eligible for interstate movement in accordance with § 301.93–5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

Moved (Move, Movement). Shipped, offered for shipment, received for transportation or transported, carried, or allowed to be moved, shipped, transported, or carried by any means.

Oriental fruit fly. The insect known as Oriental fruit fly (*Bactrocera dorsalis* (Hendel)) in any stage of development.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other entity.

Quarantined area. Any State, or any portion of a State, listed in § 301.93–3(c) of this subpart.

Regulated article. Any article listed in § 301.93–2 of this subpart or otherwise designated as a regulated article in accordance with § 301.93–2(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.93–3(b) of this subpart.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory or possession of the United States.

[58 FR 8521, Feb. 16, 1993; 58 FR 29028, May 18, 1993]

¹Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).